

HAMILTON COUNTY SOLID WASTE BOARD  
FEBRUARY 24, 2003

(12:01:46)

The Hamilton County Solid Waste Board met on Monday, February 24, 2003 in the Commissioners=Courtroom in the Hamilton County Judicial Center, One Hamilton County Square, Noblesville, Indiana. President Altman called the meeting to order. Roll Call was taken by Auditor Robin M. Mills. A quorum was declared present consisting of Christine Altman, Steven A. Holt, Steven C. Dillinger, James Belden, Daniel Henke and David George. Dennis Redick was absent.

**Approval of Minutes:** (12:02:30)

Steve Dillinger motioned to approve the minutes of November 25, 2002. Dan Henke seconded. Christine Altman abstained. Motion carried. Steve Dillinger motioned to approve the minutes of January 27, 2003. Dan Henke seconded. James Belden and Dan Henke abstained. Motion carried.

**Household Hazardous Waste Update:** (12:03:32)

Barry McNulty presented the 2002 Household Hazardous Waste Report. Barry stated they have shipped 15 tons in 2003, disposal costs for the month of January were approximately \$7,200. Christine asked how are you tracking on budget? Barry stated January, February and March are slower months. We are in good shape right now. He expects late spring and summer to be twice that amount monthly, between \$15,000 to \$20,000 per month. We had about 130 customers in January and we expect about 3 times that amount during the summer.

Jim Belden asked if the grant for the consultant has been awarded? Barry stated yes, Dave Krentler has started and is working independently. Jim asked if he is going to meet with you regarding his progress? Barry stated yes, he supplied him a list of the minimums he needed to meet according to the IDEM Grant requirements. Jim asked if the Board could receive a quarterly report from him? Barry stated he will ask him. Barry stated the other IDEM Household Hazardous Waste Grant has not been reviewed by the State yet. They are holding off on any new 2003 monies. Barry stated this is late, we normally know in the Fall.

**New Business:** (12:06:46)

**County Council Resolution:**

Christine distributed a copy of a resolution prepared by John Culp for the County Council in regards to the implementation of a Solid Waste Tax Levy. Christine stated the previous resolution presented at the January meeting was pre-mature, we don't need a controller until we have money. That resolution can be deferred. In reviewing the contracts that the Solid Waste Board entered in to last year, along with the Commissioners, County Council and Health Board, it is apparent that we have contractually obligated ourselves to pursue what is necessary to establish a levy for 2004, which means we would have to implement it this year to proceed forward or be in breach of contract. Accordingly she pulled the statutes and distributed the relevant code for the process. The first step is to approach county council to request permission

to use property taxes to self fund the operations of solid waste. The resolution presented is to do so and comply with our contractual provisions. The next step, in talking with Mr. Reuter, is to seek levy approval from the Department of Local Government Finance, that is why we have looked at numbers to find a maximum rate. In checking the contract and looking at the numbers, we have a couple of numbers that need to be reduced. One is that we are not contractually obligated to repay the county for 2002 and 2003. We are contractually obligated to run the show in 2004 with a tax levy. In talking with Mr. Reuter, even at the maximum that has been projected which is .008 cents per \$100 of assessed valuation on a house that would be approximately \$100,000 in value we are talking about an annual tax of \$4.00. If we had a \$250,000 house the tax would be \$10.00 annually. This would obligate the taxpayer less than \$1.00 per month for the opportunity to dispose of their household hazardous waste. She preliminary presented that information to county council at their January meeting and she has asked to be on their agenda with this resolution at their March meeting and she will proceed accordingly so we stay in compliance with our contract.

Mike Howard stated this is the agreement signed by the Solid Waste Board, Commissioners, Council and Health Board, last year when we were seeking how to move forward with this funding. The budget that was attached to the resolution presented at the last Solid Waste Board meeting did have a reimbursement to the county for the 2003 operations in the amount of approximately \$170,000. That is not mentioned in the agreement. Christine stated she believes that was the compromise reached to get this funding agreement through. Jim Belden stated Christine alluded to the fact that the Solid Waste Board is not under contract with the council to repay what the council thought was a loan to carry them over in 2002. Christine stated in 2002 and 2003 we had appropriations in the council budget to basically fully fund the operations, less the grant monies. Jim stated there was a point in time when they came to the council and needed another \$90,000 to carry them through the rest of the year. Christine stated she believes he is correct. Jim stated at that time it was said that the Solid Waste Board would be able to pay that back. Legally we don't have a contract with them, but is it possible to pay that back? Christine stated we could if it was the agreement with the parties. At this point we don't have a written obligation to do so. Jim stated he is hopeful after we see what the situation is, this board would pay back what was loaned in good faith. Christine stated one thing that the contract provides and we must provide for is that the way the property tax distribution works, we would not receive our 2 of the property taxes as a Solid Waste Board until June 2004. Obviously they will need operating funds before that, by contract Council agreed to lend the 2004 first half monies. Jim asked if the .008 is maximum? Christine stated by statute, unless you seek approval, the maximum rate we could levy is .00833. Steve Dillinger asked what does that generate? Christine stated .008 would generate approximately \$834,000. Steve Dillinger asked what is the budget? Christine stated a budget has not been adopted and we would not adopt a budget until budget time. Steve Dillinger asked what was last year's budget? Barry stated \$223,000 for 2003. According to the agreement the Health Department's responsibility would end in 2004, this year's budget does not include his supervision time, clerical and payroll support, maintenance and utilities. These are the things in this year's budget that are not in the 2003 budget. Christine stated Barry estimated the 2004 budget very generously to establish a levy limit we could live with. The estimated 2004 budget is \$336,000. Steve Dillinger asked why

would be generating \$800,000 if our budget is \$300,000? Barry stated we would have a municipal repayment to Carmel for \$120,000, Council repayment of \$170,000, capital improvements of \$75,000 and an equipment line item. Mike Howard stated as we speak today, under the contract, the \$170,000 would fall out. Christine stated the entire budget is \$947,000 but we back out CVET and Excise Tax. With these numbers, which we cautioned last time that we are not approving, this was merely for setting a levy amount, the \$947,000 minus the \$170,000 which is the net if we include all the contractual provisions and it includes quite a bit for payroll. Steve Dillinger asked if we are going to do this, why would we not pay back the \$170,000 to the council? Barry stated we had requested approximately \$80,000 as an additional appropriation in 2002 and in the 2003 budget we agreed to \$140,000 and our budget to run the facility for this year is \$223,000. The additional appropriation and the amount agreed upon the council said they would give us for the first two years are those 2 amounts together. Dan Henke stated the annual operation to keep the doors open budget was approximately \$250,000. Barry stated for this year that does not include the things that would have to be added in for 2004 which is all of Barry's time, clerical/payroll support, utilities, etc. Mike stated Reuter's budget is \$947,361. Christine stated looking at the personnel costs we should be able to run this at what Reuter is budgeting at. We are more than generous on personnel, if we need to we can always reduce hours, revise hours, etc. The main costs on operating a facility like this is the disposal costs. What we dispose of keeps it out of Fishers sewers, Noblesville sewers and our groundwater. Barry stated in the contractual services for disposal costs of \$240,000 is estimated high. (12:20:00) We are going through the bidding process and he does not know what is going to happen with that and he was asked to put a high number together. During our busy months we are shipping between \$20,000 - \$25,000 a month. In January it was \$7,200, but that was the slowest month since we have had since we have been opened.

Christine stated at this point we need to seek approval of county council to impose a levy, what that levy may be will go through a normal budgeting process. The order of progress is that by May 1st the council must adopt the resolution that is before you or something in similar form. In the month of June we will proceed to work with the local board of tax control to seek a maximum levy. At that point the Solid Waste Board will put together a budget that is approved by the Solid Waste Board for 2004 operating costs. The budget has to be in effect by September 20, 2003. We will defer the previous resolution because we don't have money for a controller. We will proceed with what contractually we are obligated to and that is to ask permission to do a levy so we can run the show. (12:21:56) Jim asked is Carmel's reapportionment of this tax levy based on COIT distribution? Christine stated Barry calculated it on a per capita basis. Barry stated he estimated it based on the census information on how many households are in Carmel. Barry stated everyone will have to pay a little more to pay Carmel back. Christine stated yes, it is a county wide tax and we don't have a choice. If we did not have Carmel doing what it is doing we would have double the tonnage we have now.

(12:23:41)

Rick McKinney asked that the \$170,000 repayment not be backed out. We made that loan on good faith. He would be highly offended if that \$170,000 is not repaid, as we understood it

would be. Christine stated we would have to look at the minutes where we adopted the agreement. She recalls compromises being made to get that agreement in. Whatever the minutes reflect we need to honor. Christine asked the Auditor to pull the Council minutes of that meeting and the preceding meeting.

(12:26:08)

Judy Levine asked if we have guarantees that Carmel will reimburse the residences the money? Christine stated she would assume the payment would go back just as we do with the dispatch, it would go in their general fund and in effect increase their revenues and decrease what is necessary. Their operations would be funded through their general fund. Judy stated it is still an assumption, that they would be paying this tax and Carmel would be collecting a tax. Her concern is that Carmel needs to make sure that the homeowners get that back. Christine stated in theory if Carmel's City Council are good stewards of the money they would reduce their tax levy by the amount they are being refunded. Judy asked if there is some legal language? Christine stated no. Steve Holt stated that works on the same theory as that we are taking up to the max we can take it to so we have the latitude to work. Carmel's funds theirs through their sewer district. It is currently not in their tax stream. If you are not on their water and sewer you do not have access to their solid waste facility. Their theory is that is a benefit to their sewer district not to have these things going into the waste stream. The rate payers are paying for it, not necessarily the taxpayers. Judy asked if there is any way to get it back into that revenue stream?

Christine stated we could revise whatever we do to reimburse their wastewater facility. Judy stated she agrees with Mr. McKinney and Mr. Belden, we had a gentleman's agreement on repayment and she hopes they take that in to consideration under our current budgetary problems. You have a means given to you by the State to raise the money for this and we in good faith are loaning you money so that you can get it and put it back in to our general fund. Christine stated we hear what you say and even if we do repay it, it is a one time shot and she does not think we are charging anything excessive when it is still less than \$1.00 on the value of the housing in Hamilton County for the privilege.

(12:28:37)

Dan Henke stated it appears that there is an opportunity to conduct a levy under alternative funding sources under COIT. Dan stated it seems we have permitted ourselves to go down the path of establishing a property tax levy, a tax on both residences and businesses which are not eligible for participation in this program. Whereas a COIT levy taxes individuals based on income. Dan asked if somebody could give him an explanation of the upside and downside as to why a property tax levy is preferable to a COIT distribution? Christine asked Dan if he sat on this Board when the discussions came through? Dan stated no, last year when the discussions came through regarding the contract, the contract was worked out in December and he was appointed to the Board in January. Christine stated the minutes reflect that you were a member of the Board when the contract was adopted. Dan stated yes. Christine stated she did not see a concern on his part at that time the contract was adopted. Dan stated by his abstention he did not vote in favor of it. The contract calls for a levy. You can make a levy of either property tax or COIT distribution. Why is one preferable as an alternative to another? Christine stated are we able under COIT to direct taxes in that matter. Mike stated you can use COIT for this, but it

takes out of your general COIT fund. You can not increase COIT. COIT is what it is. You can not create an additional COIT revenue stream, we can create under very limited circumstances an additional revenue stream for property tax and given the county's other COIT demands he believes it would be a suggestion. If the county could fund it from COIT we would not be having this discussion. Dan asked if establishing the additional property tax levy, does that also have a negative impact on maximum levies for the other entities that are also assessing property taxes, such as libraries, schools, municipalities? Mike stated it would draw some COIT revenue because it is a property tax levy. When you take the total amount of COIT, it will be at the 18th decimal point. We will spend a lot more time talking about it than what it is worth from the other units. Dan asked if this reduces the maximum levy on property tax for the other units? Mike stated no. It would be outside the existing levies of all units because the Solid Waste Board is presumed, for taxing purposes, a separate municipal corporation subject to the maximum levy that the President is talking about. Holt stated it appears to him that a draw on COIT would only come from the county share of COIT, not from the municipalities share of COIT. Would you concur? Dan stated if you make the draw on the county you are probably reducing the whole pot from which the county would receive and also the municipalities. Christine suggested we proceed because we have a deadline of May 1st. Just because we have permission to impose a levy does not mean we have imposed a levy and she welcomes Dan's research into the COIT distribution and determination from Fishers and the other entities that indeed if we pull it off the top if that is their desired method of funding. It would not be her desired method of funding at the county level. If Fishers would like to reduce their share of COIT to fund it, that would be fine to. Christine stated we have contractually obligated ourselves to proceed in the manner she has requested resolutions to be drafted. We still have until September 20th to do a levy or not do a levy, which should give you plenty of time to look at this for an alternative source.

(12:33:50)

Jim Belden motioned to adjourn. Steve Dillinger seconded. Steve Holt stated he thought Christine wanted to move forward on this. Christine stated by contract we are obligated to present that resolution without formal action. We said that we would seek permission to get a tax levy under the contract and she is facilitating the contract. Steve Holt stated you are advocating an affirmative vote of this board without taking a vote because a contract was executed with members of this board that neither voted on it nor were members of this board at the time the contract was entered in to. Christine stated what you are telling me is that this board does not have the ability to contract past the date of the permanent members, she thinks that this Board has absolutely no power and that is why she ran this past our attorney. Steve Holt stated there is nothing in this contract that says anything about a .008 levy. His understanding from this resolution that you handed us was that apparently there was going to be a request from this Board for a .008 levy, which this Board has never discussed. Christine stated no, she asked Mr. Culp to revise that, what that resolution indicates is that we have looked at a budget that called for .008 and we are asking permission from Council to impose property taxes at a rate not to exceed. It does not establish a rate, but it does give Council a maximum for assurances on their part of what we would request. Steve Holt asked if she thinks statutorily this board has no right to set the request for what they want the levy to be? Mike stated you could do it now, but since

there is a contract in place the appropriate time may be at budget time. You do set your own budget. Contractually you are requesting a levy. Under the procedure does it come back here after the Council? Christine stated yes. Mike stated it is going to get here anyway. Christine stated the only thing we are requesting is permission to put a tax levy to solely fund solid waste and the household hazardous waste. Mike stated this board would have control of the amount of that rate by approving the budget. Mike stated this board would be the applicant for purposes of the local tax control board and would have to vote on that application which would have a budget. Christine stated there is no reason to go forward until county council has voted up or down whether we can even consider a property tax levy and that is why we are going through the process in the order we are going. Mike asked if the council is going to address it at their next meeting? Christine stated yes. Mike stated this board will have their local tax control board petition before them at this board's next meeting? Christine stated it does not have to be. Mike Reuter indicated that it would be June that we would work on the process. Robin Mills stated we can not get on the tax control board's agenda until June or July. Mike stated it would seem given the broad range of interest that it might not be an issue that can be decided in one meeting before this board? Christine stated no. Steve Holt stated he has never, in 14 years, been involved in an activity where there was not a vote taken on whether an issue was going to move forward or not based on a contract that was signed the previous year. He thinks that is highly unusual. Mike suggested the preferable way would be to have a vote. The state tax board might not think this is enough, he does not know that. There is an argument. Ms. Altman is well taken that this Board has entered into an agreement to do that. When you go to the local tax control board you have to have all of your documents that support that you have followed the proper procedure. Whether or not the resolution needs to be expressed as opposed to implied, and the local tax control board may err on the side that the contract is not sufficient. Christine stated the statute says the Board must present a resolution to the fiscal body seeking approval for the use of property tax revenue. Steve Dillinger asked how can we do that unless we vote on it? Christine stated she believes you have already voted on it because contractually you said you would seek permission for a 2004 tax. Now if there is a motion, we would entertain a motion and she would want a roll call vote on who wants to breach this contract. Steve Holt stated this resolution has detail in it that is not contained in that contract. Steve Holt asked if she would advocate taking this resolution to the County Council without a vote in favor of it? Christine stated she would advocate asking permission and if you would care to revise that resolution that is your prerogative as a member of this board. Steve Holt stated he just wants to vote on the resolution. He is intrigued by Dan's question. It bears exploration since we have until May for the council to act. Christine clarified that we have until April meeting of council and one more meeting of this board before their meeting in April. Steve Holt asked if we could do a COIT that came off the top? Mike stated for that to happen a majority of the members of each county fiscal body within the district pass a resolution, the question is whether it comes out of the county's COIT or everybody's COIT. Steve Holt stated that language contemplates multi-county solid waste districts, which brings us back to the issue, if we could take from COIT on a county wide basis rather than the county's individual pot then we are not imposing a tax increase on the residents of Hamilton County which he thinks is a real win-win. The dilemma on this all along has been the county with our limited share of COIT dollars has been funding the operation. (12:41:54) Steve Holt motioned to table action on this resolution until next month's meeting in order to determine whether or not we

could take the COIT route and take it off the top from the entire county COIT pot. Steve Dillinger seconded. Steve Dillinger, Steve Holt, Jim Belden, Dan Henke and David George approved the motion. Christine Altman opposed. Motion approved. Dan stated he would like to see all the alternatives explored before we committed to creating a new tax. Christine stated she puts that upon Dan's shoulders to do. Steve Dillinger stated he agrees with Judy and Rick that the \$170,000 should be paid back. Steve Holt concurred also, we had a commitment to do that and he does not have a problem with it either. (12:42:46) Steve Holt stated rather than the chair dumping this on Mr. Henke he would feel more comfortable to ask Mike to research this and bring back what information he can gather. As soon as he could get the information and get it disseminated to the members of the district it would be helpful and he puts that in the form of a motion. Steve Dillinger seconded. Motion carried unanimously.

(12:43:18)

Judy Levine asked if this is jeopardizing the time frame of getting this done this year? Christine stated the absolute deadline is May 1st for Council to act if there will be a tax levy. Judy stated she believes the Council initiated and asked this body to levy a tax to pay for the facility and we would loan you money if you did that this year and you would pay it back. There was an agreement made. It took a lot to get the facility open and how hard and how many years you worked to get the facility open and she can not guarantee the funding will be there if you don't take this action.

(12:44:15)

Dan Henke motioned to adjourn. Steve Dillinger seconded. Motion carried unanimously.

**Present:**

Christine Altman  
Steven C. Dillinger  
Steven A. Holt  
James Belden  
Daniel Henke  
David George  
Robin M. Mills  
Michael Howard  
Judy Levine  
Rick McKinney  
Barry McNulty  
Stephen Wood  
Kim Rauch